

CONNECTICUT CONSTRUCTION INDUSTRIES ASSOCIATION, INC.



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Committee Bill 5898, An Act Implementing The Recommendations Of The Commission On Enhancing Agency Outcomes.

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CCIA is opposed to Section 9 of the Bill as it pertains to the procurement of construction services.

Connecticut Construction Industries Association, Inc. (CCIA) represents a large segment of the commercial construction industry in the state. Formed over 40 years ago, CCIA is an organization of associations, where various sectors of the commercial construction industry work together to advance and promote their shared interests. CCIA is comprised of more than 300 members, including contractors, subcontractors, material producers, suppliers and affiliated organizations representing many sectors of the construction industry. CCIA members have a long history of providing quality work for the public benefit.

Section 9 of this bill would, in part, make it mandatory for all state agencies to use "job order contracting" "performance based contracting" and "contingency contracting" in their routine purchases.

CCIA supports the concept of expediting government procurement. However, after many years of supporting contracting reform measures, CCIA strongly opposes measures that allow discretion in the selection process that opens the door for the types of mischief that the reforms are designed to eliminate. Additionally, CCIA strongly opposes procurement practices in public contracting that allow for significant adjustments after the bid.

Job-order contracting sets up a system where an exclusive selected contractor meets with public officials after the bid to determine the overall scope of work, select specific pre-priced items, negotiate items that are not pre-priced, and determine schedules. In addition, the system itself has many flaws that must be addressed before it can be taken to scale. For example, currently, there are only four exclusive contractors selected to cover the entire state. Once this program mandatory, the amount of work will quickly exceed the contractors' capacity. Quickly, the contractors will be in a position to perform only the most lucrative work, and leave other projects waiting for undetermined periods of time. Moreover, job-order contracting has been limited to small procurements, typically at the \$20,000 range. There is no maximum dollar limit in the bill, no direction as to whether this type of procurement should be used for single or multiple trade applications, no protection against breaking up contracts to circumvent prevailing wage requirements, and no method to deal with the volatility of construction material prices during the two-year term of the contracts – all of which will raise a number of ancillary issues.

Performance based contracting and contingency contracting both introduce unmanageable discretion in the process and create systems where work can be steered and pricing can be manipulated. The Commission on Agency Outcomes report, itself, acknowledges that performance based contracting has been in used in the state for some time, but often whether the contractor has met the performance standards is subject to debate, leaving the agency to negotiate retrospective payment based on performance.

For all of these reasons and more, CCIA is opposed to the mandatory use of "job order contracting" "performance based contracting" and "contingency contracting" in routine agency purchases as those procurements relate to construction services.

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